

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

**IN RE: ARC AIRBAG INFLATORS  
PRODUCTS LIABILITY LITIGATION**

**MDL No. 3051**

**Case No: 1:22-md-03051-ELR**

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**DECLARATION OF RONNY LÖWA IN SUPPORT OF DEFENDANT  
BAYERISCHE MOTOREN WERKE AKTIENGESELLSCHAFT'S  
MOTION TO DISMISS PLAINTIFFS' CORRECTED CONSOLIDATED  
CLASS ACTION COMPLAINT FOR LACK OF PERSONAL  
JURISDICTION PURSUANT TO FED. R. CIV. P. 12(b)(2)**

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### **DECLARATION OF RONNY LÖWA**

I, Ronny Löwa, pursuant to 28 U.S.C. § 1746, under penalty of perjury under the laws of the United States of America, declare and affirm that the following statements are true and correct to the best of my knowledge, information, and belief:

1. My name is Ronny Löwa. I am over the age of eighteen (18) and competent to make this Declaration. The facts stated below are in all things true and correct to the best of my knowledge, information, and belief.

2. I am a duly authorized representative and employee of Bayerische Motoren Werke Aktiengesellschaft ("BMW AG"). I am currently the Head of Sales Steering, Market Germany for BMW AG, a title I have held since 2022. Prior to this, I was BMW AG's regional area manager for the USA and for Canada, a position I held for nearly 4 years. I have been employed by BMW AG since 2002. As regional area manager, I was responsible for coordinating the exchange between headquarter functions at BMW AG and the various BMW Group national sales entities in the Americas, including BMW of North America, LLC ("BMW NA"). A key focus of this role is to ensure that core requirements of our American BMW Group national sales entities are understood and supported by BMW AG, e.g., for purposes of future product offerings in these markets, as well as ensuring sufficient product allocation to meet consumer demand. Accordingly, I have an understanding of the structure and business operations, policies, and procedures governing the daily

operations of BMW AG, especially in the USA and Canada regions that are in my area of responsibility. The facts stated in this declaration are personally known to me largely as a result of my years of employment at BMW AG. To ensure accuracy, I have personally verified the facts stated herein with the responsible departments at BMW AG. I have also confirmed as part of my preparation for this declaration that, to extent information stated herein is based on my knowledge in my prior position as Regional Area Manager for the United States and Canada, each of these facts as stated herein are still current and accurate.

3. I provide this Declaration in support of BMW AG's Motion to Dismiss Plaintiffs' Corrected Consolidated Class Action Complaint ("CCAC") Pursuant to Federal Rule of Civil Procedure 12(b)(2) for Lack of Personal Jurisdiction ("Motion"). I have reviewed the Motion and confirm the factual assertions in it about BMW AG are true and correct to the best of my knowledge.

4. I have reviewed a copy of the Plaintiffs' CCAC filed in this case on August 28, 2023. Based on that review, I know that Plaintiffs allege in Paragraphs 78-87 facts specific to the "BMW Defendants," which they have identified in Paragraphs 78 through 80 as (1) BMW Manufacturing Co., (2) BMW of North America, LLC, and (3) Bayerische Motoren Werke Aktiengesellschaft, which they collectively refer to them in Paragraph 81 as the "BMW Defendants." Plaintiffs allege in Paragraph 82 that "the BMW Defendants were authorized to conduct and

did engage in substantial business within each state and territory of the United States and supplied products within them, including the states of South Carolina and New Jersey, such that they should anticipate being haled into Court there.” Plaintiffs further allege in Paragraph 82 that the “BMW Defendants maintain contractual relationships with the ARC Defendants and/or the Airbag Module Defendants to purchase component parts with the intent they be installed and sold in Class Vehicles, including vehicles in South Carolina and New Jersey, sold through a network of dealerships within those states.” Plaintiffs further allege in Paragraph 82 that “these contractual relationships are centered in South Carolina, as BMW [MC] is headquartered there [and] [i]ts distributorship is headquartered in New Jersey.” Plaintiffs further allege in Paragraph 82 that “the BMW Defendants have afforded themselves the protection of New Jersey and South Carolina laws” [and] [t]he BMW Defendants also committed the tortious acts alleged in this Complaint in whole or in part in the States of New Jersey and South Carolina by virtue of marketing and selling its vehicles intrastate to New Jersey and South Carolina consumers.” I understand the two Plaintiffs who have purchased BMW’s and are listed in the CCAC in Paragraphs 162 and 190 are residents of South Carolina and Massachusetts and that they assert claims on behalf of consumers in these states and in the U.S.

5. Neither “BMW” nor “Defendants” refer to a recognized legal entity. BMW AG, BMW NA, and BMW MC are three distinct and separate legal entities.

**BMW AG**

6. BMW AG is, and always has been, a corporation organized and existing under the laws of the Federal Republic of Germany. BMW AG is an “Aktiengesellschaft,” which is a publicly traded German stock company. BMW AG’s principal place of business and corporate headquarters are in Munich, Germany.

7. BMW AG is not incorporated in any state in the United States, nor is it qualified to do business in any state in the United States, including in South Carolina, New Jersey, or any of the States in which Plaintiffs reside.

8. BMW AG has no agent for service of legal process in any state in the United States, including in South Carolina, New Jersey, or any of the states in which Plaintiffs reside. BMW AG also has not designated any entity, including BMW NA, as its agent for service of legal process anywhere in the United States.

9. BMW AG is not a taxpayer in the United States or any of its states, including in South Carolina, New Jersey, or any of the states in which Plaintiffs reside.

10. BMW AG does not have an office, factory, warehouse, or research facility in the United States, including in South Carolina, New Jersey, or any of the states in which Plaintiffs reside.

11. BMW AG does not own, use, or possess any real property situated within the United States, including in South Carolina, New Jersey, or any of the states in which Plaintiffs reside.

12. BMW AG designs and manufactures vehicles in Germany. BMW AG does not design or manufacture vehicles in the United States. BMW AG also does not sell or distribute vehicles directly to dealers or to the general public in the United States, nor does BMW AG maintain sales forces in the United States.

13. BMW AG designs motor vehicles which comply with the laws and regulations of countries around the world, including but not limited to the EU, Japan, Australia, and the United States. Except as otherwise stated in the preceding sentence, BMW AG does not design any products specifically directed to consumers located in the United States, including in South Carolina, New Jersey, or any of the states in which Plaintiffs reside.

14. BMW AG does not conduct sales campaigns for BMW or MINI brand vehicles that are directed at the general public in any U.S. state, including South Carolina, New Jersey, or any of the states where Plaintiffs reside. BMW AG also does not conduct or solicit continuous or systematic business of any kind in any U.S. state.

15. BMW AG does sell BMW or MINI vehicles to U.S. dealers or the general public in South Carolina, New Jersey, or any of the states in which Plaintiffs reside. These vehicles are purchased by dealerships from BMW NA.

16. BMW AG does not advertise, market, sell, distribute, or warrant goods or services in the United States, including in South Carolina, New Jersey, or any of the states in which Plaintiffs reside.

17. BMW AG does not target consumers or conduct sales campaigns directed at the general public in the United States, including South Carolina, New Jersey, or any of the states where Plaintiffs reside, for vehicles certified for use on the public streets, roads, and highways of the United States.

18. Although BMW AG may, from time-to-time, make representations or may issue statements that worldwide media may pick up and then disseminate globally, these statements or representations are not specifically directed toward and do not target consumers in South Carolina, New Jersey, or any other state in which Plaintiffs reside. Product statements that are specific to a region or market, like the United States, are usually made or handled by local product distributors (*e.g.*, BMW NA).

19. BMW AG does not employ individuals in the United States, including in South Carolina, New Jersey, or any of the states where Plaintiffs reside, nor does it maintain a sales force of any kind in any of those states.



20. BMW AG does not receive income from South Carolina, New Jersey, or any of the states in which Plaintiffs reside.

21. BMW AG has not otherwise directed any particular activity related to its business directly towards any particular U.S. state or residents of any particular U.S. state, including South Carolina, New Jersey, or any of the states in which Plaintiffs reside. Nor has BMW AG engaged in any affirmative conduct to promote the transaction of its business in these states.

**BMW NA and BMW MC**

22. BMW NA and BMW MC are indirect subsidiaries of BMW AG. BMW NA is a separate, distinct, and independent business entity from BMW AG. BMW MC is also a separate, distinct, and independent business entity from BMW AG.

23. BMW NA is a limited liability company, organized under the laws of the State of Delaware, and has its principal place of business in New Jersey. Its managing member is BMW (US) Holding Corp.; BMW (US) Holding Corp. in turn is a subsidiary of BMW International Holding B.V., a Dutch business entity; BMW International Holding B.V. in turn is a subsidiary of BMW Beteiligungs GmbH & Co. KG, a Germany business entity; BMW Beteiligungs GmbH & Co. KG in turn is a subsidiary of BMW INTEC Beteiligungs GmbH, a German business entity, and BMW Vermögensverwaltungs GmbH, a German business entity; BMW Vermögensverwaltungs GmbH in turn is a subsidiary of BMW INTEC Beteiligungs



GmbH; BMW INTEC Beteiligungs GmbH in turn is a subsidiary of BMW AG, a German business entity.

**RELATIONSHIP BETWEEN BMW AG AND BMW NA**

24. BMW AG is a distinct legal entity that is separated from BMW NA by five intermediary entities. BMW AG does not directly own or hold any interest in BMW NA.

25. BMW AG does not control the operations of BMW NA. BMW AG is not a manager or member of BMW NA. BMW AG does not have day-to-day control of the internal affairs or basic operations of BMW NA.

26. The corporate affairs of BMW AG are directed by a Board of Managers (Vorstand), which manages the business of BMW AG. No member of BMW AG's Board of Managers is an officer or employee of BMW NA.

27. BMW NA is the exclusive United States distributor of new BMW and MINI brand vehicles to the public in the United States. BMW NA markets, advertises, warrants, and sells new BMW and MINI brand vehicles to U.S. BMW and MINI dealerships. BMW AG does not control the distribution of BMW and MINI brand vehicles in the United States, nor does it direct BMW NA to sell vehicles to dealerships in any particular state in the United States, including in New Jersey or any of the states where Plaintiffs reside. Marketing decisions for BMW and MINI

brand motor vehicles that are directed toward consumers in the United States are made exclusively by BMW NA.

28. BMW AG does not handle the financial affairs of BMW NA. BMW AG does not maintain BMW NA's corporate books, records, or bank accounts. BMW AG does not prepare or file tax returns for or on behalf of BMW NA.

29. BMW NA distributes vehicles that are certified for use on public streets, roads, and highways of the United States. BMW AG sells vehicles to BMW NA "Ex works" at the port of embarkation in Germany.

30. BMW NA, as distributor of BMW and MINI vehicles in the United States, has separate corporate interests from BMW AG, the manufacturer. BMW AG and BMW NA each have their own separate procedures and policies for their respective operations.

31. Every statement contained in this Declaration is within my personal knowledge, except where it is stated to be made on information and belief.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge, information, and belief, and that this declaration was executed on December 18, 2024 in Munich, Germany.

A handwritten signature in blue ink, appearing to be 'R. Löwa', is written over a horizontal line.

Ronny Löwa